

**From:** Gabriel Ash  
**To:** Microsoft ATR  
**Date:** 1/23/02 11:31pm  
**Subject:** Microsoft Settlement

RE: comment on the proposed settlement between the DOJ and Microsoft

I would like to express my adamant opposition to the proposed settlement.

The proposed settlement does not effectively punish Microsoft for proven illegal behavior. The proposed settlement does not effectively prevent Microsoft from continuing to abuse its monopoly. The proposed settlement sends the wrong message about the rule of law to would be violators and to the public.

The propose settlement fails to prohibit many of the abuses that were revealed in the trial, including punitive pricing and coercive contracts.

But even within the few and inadequate restrictions it does establish, the settlement lacks a serious enforcing mechanism. It leaves Microsoft free to interpret the agreement and requires a new trial in order to establish violations. That would be unsound in any case, let alone in this case, in which the offender has a track record of bad faith in dealing with the law.

The weakness of the proposed settlement stands in stark contrast to the strong findings of fact against Microsoft. The finding that Microsoft's abused its monopoly withstood appeal. That the DOJ would agree to such a weak deal from such a strong position suggests either incompetence or corruption.

Microsoft has been bound by a consent decree even before the latest trial. That consent decree was poorly observed. In the trial, disturbing evidence emerged regarding the complete contempt in which key Microsoft executives held the federal government and the judicial system. Here is a company that not only broke the law, but did it repeatedly and brazenly, and never showed an ounce of contrition and never accepted responsibility, even after the appeals court sustained most of the case against it. For such a company to come out of this case basically unscathed, is to invite a general contempt for anti-trust law and federal oversight of commerce in general. Especially now, after the massive failure of regulation that was revealed in the Enron collapse, this is the wrong message for the court to send to the nation.

America needs to hear from this court a n affirmation of the integrity of the law and of the role of the government in overseeing and enforcing the rules of commercial competition. Accepting this settlement will not

acheive this goal.

respectfully

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